

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1587 Special Districts for Seniors' Services
SPONSOR(S): Seiler
TIED BILLS: **IDEN./SIM. BILLS:** SB 2420

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government & Veterans' Affairs</u>	<u>19 Y, 0 N w/CS</u>	<u>Mitchell</u>	<u>Cutchins</u>
2) <u>Future of Florida's Families</u>	_____	_____	_____
3) <u>Finance & Tax</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

This bill amends the name of part V of chapter 125, Florida Statutes, and creates section 125.903, Florida Statutes, to permit each county, by ordinance, to create an independent special district to provide funding for seniors' services throughout the county, hereinafter referred to as the "seniors' services district." The boundaries of such a seniors' services district must be the same as the boundaries of the county.

The county must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed 0.5 mills of assessed valuation of all properties within the county which are subject to ad valorem county taxes.

The bill provides for these districts to be governed by a "council on seniors' services," consisting of ten members: the executive director of the area agency on aging; the county director of human services; one member of the county governing board for a 2-year term; one nonvoting member of the legislative delegation for the county appointed by the delegation chair for a 2-year term; one county representative of the Florida League of Cities for a 2-year term; and five members appointed by the Governor for a 4-year term, initially staggered, with reappointment for one additional term permitted, and who meet additional qualifications.

The bill sets forth permissive powers, duties, and the financing and budgeting requirements of these districts.

The bill provides that these districts must comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports.

The bill allows for cooperative agreements between districts.

The bill provides for dissolution of these districts.

The bill also provides a necessary cross reference within section 189.404, Florida Statutes, which allows the creation of independent special districts by counties.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |

For any principle that received a “no” above, please explain:

This bill may not reduce government or lower taxes because it permits each county to create an independent special district to provide funding for seniors’ services throughout the county. These seniors’ services districts may, however, empower families.

B. EFFECT OF PROPOSED CHANGES:

Defining Special Districts

A special district is a local unit of *special purpose government* whose special purpose or purposes are implemented by specialized functions and related prescribed powers within a limited boundary.¹ An independent special district is one which does not have any of the following:

- the membership of its governing body as identical to that of the governing body of a single county or a single municipality;
- all members of its governing body appointed by the governing body of a single county or a single municipality;
- members of the governing body of the special district subject to removal at will by the governing body of a single county or a single municipality during their unexpired terms; or
- a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.²

An independent special district must comply with the creation, dissolution, and reporting requirements set forth in chapter 189, Florida Statutes.³ An independent special district, except for a community development district, is also required to have a charter that meets certain minimum requirements.⁴

Special District Creation

Only the Legislature may create *independent* special districts, except as otherwise authorized by general law. These exceptions include:

¹ See Fla. Stat. § 189.403(1) (2003) (also exempting from the definition of special district: school districts, community college districts, a special improvement districts, municipal service taxing or benefit units, or boards which provide electrical service and which is a political subdivision of a municipality or is part of a municipality.

² See Fla. Stat. § 189.403(3) (2003).

³ See Fla. Stat. § 189.4031(1) (2003).

⁴ See Fla. Stat. §§ 189.4031(2) and 189.404(3) (2003).

- Municipalities, counties, or the Governor and Cabinet may create community development districts created by as provided by law.⁵
- Counties may create independent special districts for children's services,⁶ county health and mental health care⁷, or hospitals⁸ by adopting the required charter.
- Any combination of two or more counties, municipalities, or the Governor and Cabinet may create a regional water supply authority.⁹
- Any combination of two or more counties may create a regional special district to provide for regional jails.¹⁰
- Any combination of two or more counties, municipalities, or other political subdivisions may create a regional special district to act as a regional transportation authority.¹¹

Independent Special Districts for Seniors' Services

This bill provides for another general law which permits the creation of an independent special district other than by the Legislature.

This bill amends the name of part V of chapter 125, Florida Statutes, and creates section 125.903, Florida Statutes, to permit each county, by ordinance, to create an independent special district to provide funding for seniors' services throughout the county, hereinafter referred to as the "seniors' services district." The boundaries of such a seniors' services district must be the same as the boundaries of the county.

The county must obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes that may not exceed 0.5 mills of assessed valuation of all properties within the county which are subject to ad valorem county taxes.

The bill provides the legislative intent that funds collected through the creation of a seniors' services district be used to support improvements in seniors' services and that such funds not be used as a substitute for existing resources or for resources that would otherwise be available for seniors' services.

Governing Board of the Seniors' Services District

The governing board of the seniors' services district is a "council on seniors' services," which may also be known as an "elderly advocacy board" or similar name.

The council must consist of ten members:

- the executive director of the area agency on aging, or his or her designee who is a director of senior programs, as a permanent position;

⁵ See Fla. Stat. 190.005 (2003).

⁶ See Fla. Stat. § 125.901 (2003).

⁷ See Fla. Stat. § 154.331 (2003).

⁸ See Fla. Stat. ch. 155 (2003).

⁹ See Fla. Stat. § 373.1962 (2003).

¹⁰ See Fla. Stat. § 950.001 (2003).

¹¹ See Fla. Stat. § 163.567 (2003).

- the county director of human services or his or her designee who is a director of elderly services, as a permanent position;
- one member of the county governing board for a 2-year term;
- one nonvoting member of the legislative delegation for the county appointed by the delegation chair for a 2-year term;
- one county representative of the Florida League of Cities for a 2-year term; and
- five members appointed by the Governor for a 4-year term, initially staggered, with reappointment for one additional term permitted, and meeting these additional qualifications -
 - these members must, to the greatest extent possible, represent the cultural diversity of the county's population;
 - two of these members must be 60 years of age or older;
 - these members must have been residents of the county for the previous 24-month period
 - the county must provide three recommended names for each vacancy, determined by category and the Governor must make a selection within a 45-day period or request a new list of candidates.

The Governor may remove a member for cause or upon the written petition of the county governing body. If any of the members of the council required to be appointed by the Governor resign, die, or are removed from office, the vacancy is filled by appointment by the Governor, using the same method as the original appointment, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office.

Members of the council shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses consistent with section 112.061, Florida Statutes.

Permissive Powers of the Seniors' Services District

The council of the seniors' services district is given a number of permissive powers:

1. provide and maintain in the county such preventive, developmental, treatment, and rehabilitative services for seniors as the council determines are needed for the general welfare of the county;
2. provide such other services for all seniors as the council determines are needed for the general welfare of the county;
3. allocate and provide funds for other agencies in the county which are operated for the benefit of seniors;
4. collect information and statistical data and conduct research that will be helpful to the council and the county in deciding the needs of seniors in the county;
5. consult and coordinate with other agencies dedicated to the welfare of seniors to the end that the overlapping of services will be prevented;
6. lease or buy real estate, equipment, and personal property and construct buildings as needed to execute the foregoing powers and functions, except that such purchases may not be made or

building done unless paid for with cash on hand or secured by funds deposited in financial institutions; and

7. employ, pay, and provide benefits for any part-time or full-time personnel needed to execute the foregoing powers and functions.

Duties of the Seniors' Services District

The council of the seniors' services district is also charged with a number of duties:

1. elect a chair and a vice chair from among its members, and elect other officers as deemed necessary by the council;
2. identify and assess the needs of the seniors in the county served by the council and submit to the governing body of each county a written description of:
 - the activities, services, and opportunities that will be provided to seniors.
 - the anticipated schedule for providing those activities, services, and opportunities.
 - the manner in which seniors will be served, including a description of arrangements and agreements which will be made with community organizations, state and local educational agencies, federal agencies, public assistance agencies, the court system, guardianship groups, and other applicable public and private agencies and organizations.
 - the special outreach efforts that will be undertaken to provide services to at-risk, abused, or neglected seniors.
 - the manner in which the council will seek and provide funding for unmet needs.
 - the strategy that will be used for interagency coordination to maximize existing human and fiscal resources;
3. provide training and orientation to all new members sufficient to allow them to perform their duties;
4. make and adopt bylaws and rules for the council's guidance, operation, governance, and maintenance, if such rules are not inconsistent with federal or state laws or county ordinances;
5. provide an annual written report, to be presented no later than January 1 of each year to the governing body of the county with the following provisions:
 - information on the effectiveness of activities, services, and programs offered by the council, including cost-effectiveness;
 - a detailed anticipated budget for continuation of activities, services, and programs offered by the council, and a list of all sources of requested funding, both public and private;
 - procedures used for early identification of at-risk seniors who need additional or continued services and methods for ensuring that the additional or continued services are received;

- a description of the degree to which the council's objectives and activities are consistent with the goals of this section;
 - detailed information on the various programs, services, and activities available to participants and the degree to which the programs, services, and activities have been successfully used by seniors;
 - information on programs, services, and activities that should be eliminated; programs, services, and activities that should be continued; and programs, services, and activities that should be added to the basic format of the seniors' services council; and
6. maintain minutes of each meeting, including a record of all votes cast, and make such minutes available to any interested person.

Financing and Budgeting of the Seniors' Services District

The bill also provides a number of financial and budgeting parameters for seniors' services districts:

- The fiscal year of the district is the same as that of the county.
- The council of the seniors' services district must prepare a tentative annual written budget of the district's expected income and expenditures, including a contingency fund.
- The council must also compute a proposed millage rate necessary to fund the tentative budget and comply with the provisions of section 200.065, Florida Statutes, relating to the method of fixing millage, and fix the final millage rate by resolution of the council prior to adopting a final budget.
- The adopted budget and final millage rate are then certified and delivered to the governing body of the county as soon as possible following the adoption by the council of the final budget and millage rate pursuant to chapter 200, Florida Statutes. The millage rate, adopted by resolution of the council, necessary to be applied to raise the funds budgeted for district operations and expenditures must be included in each certified budget.
- After the budget of the district is certified and delivered to the governing body of the county, it may not be changed or modified by the governing body of the county or any other authority.
- All tax money collected under this section, as soon after collection as is reasonably practicable, shall be paid directly to the council on seniors' services by the tax collector of the county, or the clerk of the circuit court if the clerk collects delinquent taxes.
- All moneys received by the council on seniors' services must be deposited in qualified public depositories, as defined in section 280.02, Florida Statutes, with separate and distinguishable accounts established specifically for the council and shall be withdrawn only by checks signed by the chair of the council and countersigned by one other member of the council on seniors' services or by a chief executive officer authorized by the council.
- The chair and the other member of the council or chief executive officer who signs its checks must each give a surety bond in the sum of at least \$1,000 for each \$1 million or portion thereof of the council's annual budget, which bond shall be conditioned that each shall faithfully discharge the duties of his or her office. The premium on such bond may be paid by the district as part of the expense of the council. No other member of the council has to give bond or other security.

- Funds of the district may only be expended by check, except expenditures from a petty cash account, which may not at any time exceed \$100. All expenditures from petty cash must be recorded on the books and records of the council on seniors' services. Funds of the council on seniors' services, except for expenditures from petty cash, may not be expended without prior approval of the council, in addition to the budgeting thereof.
- The seniors' services district must prepare and file, within 10 days after the expiration of each quarter, a financial report which includes: the total expenditures of the council for the quarter annual period; the total receipts of the council during the quarter annual period; a statement of the funds the council has on hand, has invested, or has deposited with qualified public depositories at the end of the quarter annual period; and the total administrative costs of the council for the quarter annual period.
- After or during the first year of operation of the council on seniors' services, the governing body of the county, at its option, may fund in whole or in part the budget of the council on seniors' services from its own funds.

Compliance with Other Statutory Requirements

Any district created pursuant to this section shall comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports required under part III of chapter 218, Florida Statutes, or any other report or documentation required by law, including the requirements of sections 189.415, 189.417, and 189.418, Florida Statutes.

Cooperative Agreements

Two or more councils on seniors' services may enter into two types of cooperative agreements:

1. A cooperative agreement to share administrative costs, including, but not limited to, staff and office space, if a more efficient or effective operation will result. The cooperative agreement must include provisions on apportioning costs between the councils, keeping separate and distinct financial records for each council, and resolving any conflicts that might arise under the cooperative agreement.
2. A cooperative agreement to seek grants, to accept donations, or to jointly fund programs serving multicounty areas. The cooperative agreement must include provisions for the adequate accounting of separate and joint funds.

Dissolution

Any district created by the provisions set forth in the bill may be dissolved by (1) a special act of the Legislature, (2) an ordinance of the county governing body, subject to the approval of the electorate, or (3) the procedures set forth in section 189.4042, Florida Statutes.

Prior to being dissolved, the county must first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes as provided for under section 9, Article VII of the State Constitution.

Dependent Special Districts

This bill does not prevent a county from creating a dependent special district within the boundaries of the county for the purpose of providing preventive, developmental, treatment, and rehabilitative services for seniors. This dependent district may seek grants from state, federal, and local agencies and accept donations from public and private sources, but must comply if the district has the same type

duties as a seniors' services district and has a budget that requires approval through an affirmative vote of the governing body of the county or may be vetoed by the governing body of the county.

Cross Reference in Chapter 189, Florida Statutes

The bill provides a necessary cross reference within section 189.404, Florida Statutes, which allows the creation of independent special districts by counties.

C. SECTION DIRECTORY:

Section 1: Creates section 125.903, Florida Statutes, to provide for the creation, governing body, powers, duties, and functions of an independent special district to provide funding for seniors' services throughout a county.

Section 2: Redesignates part V of chapter 125, Florida Statutes, as "Children's and Seniors' Services."

Section 3: Updates paragraph (b) of subsection (4) of section 189.404, Florida Statutes, to include section 125.903, Florida Statutes.

Section 4: This act shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on state government revenues.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has a fiscal impact on local government revenues in that it permits the establishment of an independent special district to providing funding for seniors' services throughout the a county through the annual levy of an ad valorem tax as approved by the electors of the county.

2. Expenditures:

This bill has a fiscal impact on local government expenditures in that it permits the establishment of an independent special district which may expend funds for seniors' services throughout the a county. The bill, however, provides the intent of the Legislature that the expenditure of funds by the seniors' services district are not to be used as a substitute for existing resources or for resources that would otherwise be available for seniors' services.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The collection of ad valorem taxes as well as the operation of these seniors' services districts may have a direct economic impact on the private sector.

D. FISCAL COMMENTS:

There are no additional fiscal comments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The municipal/county mandates provision in section 18 of article VII of the Florida Constitution does not appear to be applicable since the bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

There do not appear to be any other constitutional issues.

B. RULE-MAKING AUTHORITY:

This bill requires the seniors' services district to make and adopt bylaws and rules for the council's guidance, operation, governance, and maintenance, if such rules are not inconsistent with federal or state laws or county ordinances;

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue – Subsection (7)

Subsection (7) permits counties to create dependent special districts for the purpose of providing preventive, developmental, treatment, and rehabilitative services for seniors, a power which counties seem to currently possess. Thus, it is not clear if this provision is intended to restrict the power of counties to create this type of special district. That is, a county could only create a special district to provide preventive, developmental, treatment, and rehabilitative services for seniors if it has the duties required of seniors' services districts in this bill.

Drafting Issue – Compliance with Section 189.404, Florida Statutes

Section 189.404, Florida Statutes, requires general laws that authorize the creation of independent special districts to address and contain certain minimum requirements. These requirements should be referenced in the bill:

Such ordinance shall create a charter for the district which addresses and contains the minimum requirements required by subsection (3) of section 189.404, Florida Statutes.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On April 14, 2004, the Committee on Local Government & Veterans' Affairs adopted a "strike-everything" amendment which provides a statute number for the new section created by the bill and provides a necessary cross reference within section 189.404, Florida Statutes, which allows the creation of independent special districts by counties. The bill, as amended, was favorably reported with committee substitute.